

Case 8:08-cv-00663-AW Document 99-2 Filed 01/13/10 Page 1 of 2  
**on behalf of R. Wayne Pierce**

---

**From:** "Wayne Pierce" <wpierce@adventurelaw.com>  
**To:** "Kerksiek, Sanya" <SKerksiek@crowell.com>  
**Cc:** "Sauers, William" <WSauers@crowell.com>; "on behalf of R. Wayne Pierce" <obowp@adventurelaw.com>  
**Sent:** Thursday, November 19, 2009 2:53 AM  
**Subject:** Re: CoStar v. Alliance

Sanya

I am out of the office this week, so I am not quite sure that I can optimally respond. Whether you choose to withdraw the exhibit is up to your strategy, but that does not diminish the viability -- or propriety -- of that option. I don't have my complete file with me, but your request that we agree that you can "re-file" the motion to seal does not make any sense to me. Once you have precluded the option of withdrawing the exhibit to suit your own convenience, I thought the only issue was whether we would agree to make our corporate representative's deposition a matter of public record. We do not agree to do so. If I am missing something further, then I am not going to be able to determine that until I get access to my file next week. If you are going to self-servingly re-cast our position, please indicate to the judge that you declined to pursue the easiest option of all: simply withdrawing the exhibit.

I will respond further to the amount of counsel fees once I return to the office next week.

Jody

Please calendar that I will respond to this issue on Tuesday.

----- Original Message -----

**From:** [Kerksiek, Sanya](#)  
**To:** [wpierce@adventurelaw.com](mailto:wpierce@adventurelaw.com)  
**Cc:** [Sauers, William](#)  
**Sent:** Tuesday, November 17, 2009 4:43 PM  
**Subject:** Re: CoStar v. Alliance

Wayne -

We write in response to the e-mails you sent yesterday. Given the procedural status of this case, CoStar does not believe it is appropriate to withdraw the exhibit or the redacted version of the memorandum in support of its motion to compel. Accordingly, CoStar requests again whether Pathfinder agrees to the re-filing of the motion to seal. If it does not agree, then CoStar intends to re-file the motion, and intends to indicate that the parties met and conferred, and that while Pathfinder did not agree to lift the confidentiality designation, it also did not agree to the re-filing of the motion to seal.

As to your other e-mail, CoStar cannot properly meet and confer, as Pathfinder has not provided information regarding the costs and attorneys' fees that it intends to seek, including the amount. Please provide this information in order to facilitate the meet and confer process.

Sanya

---

**From:** Wayne Pierce  
**To:** Kerksiek, Sanya  
**Sent:** Mon Nov 16 17:49:17 2009  
**Subject:** Re: CoStar v. Alliance

I have now checked. Yes, we want to maintain the confidentiality of the deposition transcript. As I read the local rule, you can do so merely by withdrawing it as an exhibit.

**EXHIBIT 2**

----- Original Message -----

**From:** [Kerksiek, Sanya](#)

**To:** [Wayne Pierce](#)

**Cc:** [Sauers, William](#)

**Sent:** Thursday, November 12, 2009 1:05 PM

**Subject:** RE: CoStar v. Alliance

Thank you for your response. We will accordingly wait to hear from you regarding whether Pathfinder would like CoStar to re-file its motion to seal.

---

**From:** Wayne Pierce [mailto:wpierce@adventurelaw.com]

**Sent:** Thursday, November 12, 2009 12:59 PM

**To:** Kerksiek, Sanya

**Subject:** Re: CoStar v. Alliance

Yes. Coincidentally, I received an e-mail indicated that my client is out of the office and will not be available until sometime next week, so I will get back to you as soon as I can.

----- Original Message -----

**From:** [Kerksiek, Sanya](#)

**To:** [Wayne Pierce](#)

**Cc:** [Sauers, William](#)

**Sent:** Thursday, November 12, 2009 12:52 PM

**Subject:** CoStar v. Alliance

Wayne,

This e-mail follows up on our phone call today. We asked whether, in light of the court's denial of CoStar's motion to seal, Pathfinder would agree to lift the confidentiality designation of the testimony of Mr. Wu that is quoted in CoStar's motion to compel. If Pathfinder agrees, then CoStar would not re-file the motion to seal. If Pathfinder does not agree, then CoStar intends to re-file the motion to seal, which would indicate that the parties met and conferred, but that Pathfinder did not agree to lift the confidentiality designation. You represented that you would confer with your client and get back to us. We will await your response.

Regards,  
Sanya

**Sanya Sarich Kerksiek**

Crowell & Moring LLP

1001 Pennsylvania Avenue, NW

Washington, D.C. 20004-2595

Telephone: (202) 624-2862

Facsimile: (202) 628-5116

Email: [skerksiek@crowell.com](mailto:skerksiek@crowell.com)